

**The Putting Investors First Act (H.R. 448)**  
**Rep. Bryan Steil**

***Section-by-Section***

**Section 1: Short title**

**Section 2: Definitions**

**Section 3: Registration of proxy advisory firms**

- Requires proxy advisory firms to register with the Securities and Exchange Commission (SEC).
- Registrants must provide the following information:
  - Certification that the applicant is able to consistently provide proxy advice based on accurate information
  - Explanation of the procedures and methodologies used in developing proxy voting recommendations
  - Organizational structure of the applicant
  - Code of ethics
  - Conflicts of interest relating to the ownership structure or business model of the proxy advisory firm
  - Policies and procedures to manage conflicts of interest
- Requires registrants to update their information promptly if anything previously submitted to the SEC becomes materially inaccurate.
- Requires annual recertification.
- Provides a process for the SEC to censure, deny, or suspend the registration of a proxy advisory firm for noncompliance or for association with a person convicted of a criminal offense.
- Provides a process for proxy advisors to withdraw their registration voluntarily.
- Prohibits proxy advisory firms from also offering consulting services for corporate issuers related to shareholder proposals or corporate governance.
- Proxy advisory firms that endorse proposals that violate state or federal law must pay the costs associated with those proposals, including implementation costs and penalties incurred by issuers if these proposals are enacted.
- Requires proxy advisors to make the data and information upon which recommendations will be based available to issuers at least one week before the publication of proxy voting recommendations.
- Requires proxy advisory firms (or any other firms providing voting advice) to demonstrate that their vote recommendations are in the best economic interest of shareholders, other than (1) with respect to company-sponsored proposals, such as the election of directors and the appointment of the independent auditor, or (2)

where the proxy advisory firm recommended a vote consistent with the recommendation of a board of directors composed of a majority of independent directors.

- Requires the CEO, CFO, and the primary executive responsible for overseeing the compilation and dissemination of proxy voting advice to certify that their firm's recommendations are based on internal controls and procedures that are designed to ensure accurate information, account for state and federal laws, and prioritize shareholder returns.

#### **Section 4: Duties of investment advisors, asset managers, and pension funds**

- Any investment advisor, asset manager, or pension fund that retains the services of a proxy advisory firm must report annually to beneficiaries or customers (as appropriate):
  - The percentage of all votes cast on shareholder proposals that follow proxy advisor recommendations for each proxy advisory firm to which they subscribe.
  - The percentage of votes cast on ESG-related shareholder proposals that follow proxy advisor recommendations for each proxy advisory firm to which they subscribe.
  - How proxy advisor recommendations are used in making voting decisions and how these recommendations are reconciled with their fiduciary obligation to vote in the best economic interests of shareholders.
  - How frequently votes are changed when an error occurs or due to new information from issuers.
  - The degree to which investment professionals at a given firm are involved in proxy voting decisions.
- Any investment advisor or asset manager with more than \$100 billion in assets under management must provide its customers with the option to provide guidance on how their shares should be voted.
- Requires disclosure regarding voting motivations:
  - With respect to every proposal on which they voted, with the exception of (1) company-sponsored proposals, such as the election of directors and the appointment of the independent auditor, or (2) where the institutional investor voted consistent with the recommendation of a board of directors composed of a majority of independent directors, institutional investors should be required to publish the economic analysis they conducted to determine that their vote is in the best economic interest of the beneficial holders.

#### **Section 5: Transparency regarding ESG funds**

- Requires any broad-based fund that advertises itself as an ESG fund to disclose on the first page of its prospectus in tabular form the 1-, 3- and 5-year annual returns and fees charged to investors in comparison with the returns and fees charged for the most readily comparable non-ESG index funds offered by the same firm.

### **Section 6: Resubmissions of shareholder proposals**

- Allows for the exclusion of shareholder proposals addressing substantially the same subject matter as a proposal considered in the preceding 5 years (and voted on most recently in the last 3 years) if:
  - A proposal received less than 5 percent of the vote during a single vote.
  - A proposal received less than 15 percent of the vote during two votes.
  - A proposal received less than 25 percent during three votes.
- Clarifies that a proposal that raises a non-germane issue, including an issue of major social concern, is excludable.

### **Section 7: Prohibition on robovoting**

- Defines and prohibits the practice of robovoting.
- Robovoting is defined as the practice of automatically voting in a manner consistent with the recommendations of a proxy advisory firm.

### **Section 8: Liability for certain failures to disclose material information**

- Clarifies that a proxy advisory firm can be held liable for false or misleading statements (under rule 14a-9).

### **Section 9: Accountability to Congress**

- Direct the SEC to study (within 180 days):
  - Consider the costs borne by issuers that are forced to respond to large numbers of politically motivated or frivolous proposals.
  - Fees paid by public companies to proxy advisory firms and affiliates, including the sources and amounts of consulting fees
  - Qualifications of staff tasked with advisory work at proxy advisory firms
  - The number of shareholder proposals that would – if passed – require issuers to violate state or federal laws and an estimate of the costs